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M E M O R I A L

F O R

COMTE DE CAGLIOSTRO,

Plaintiff,

H. Balsano.

V E R S U S

MAITRE CHESNON, Jun.

COMMISSARY IN THE CHATELET OF PARIS,

A N D

LE SIEUR DE LAUNAY,

KNIGHT OF THE ROYAL AND MILITARY ORDER OF ST.

LOUIS, GOVERNOR OF THE BASTILLE,

Defendants.

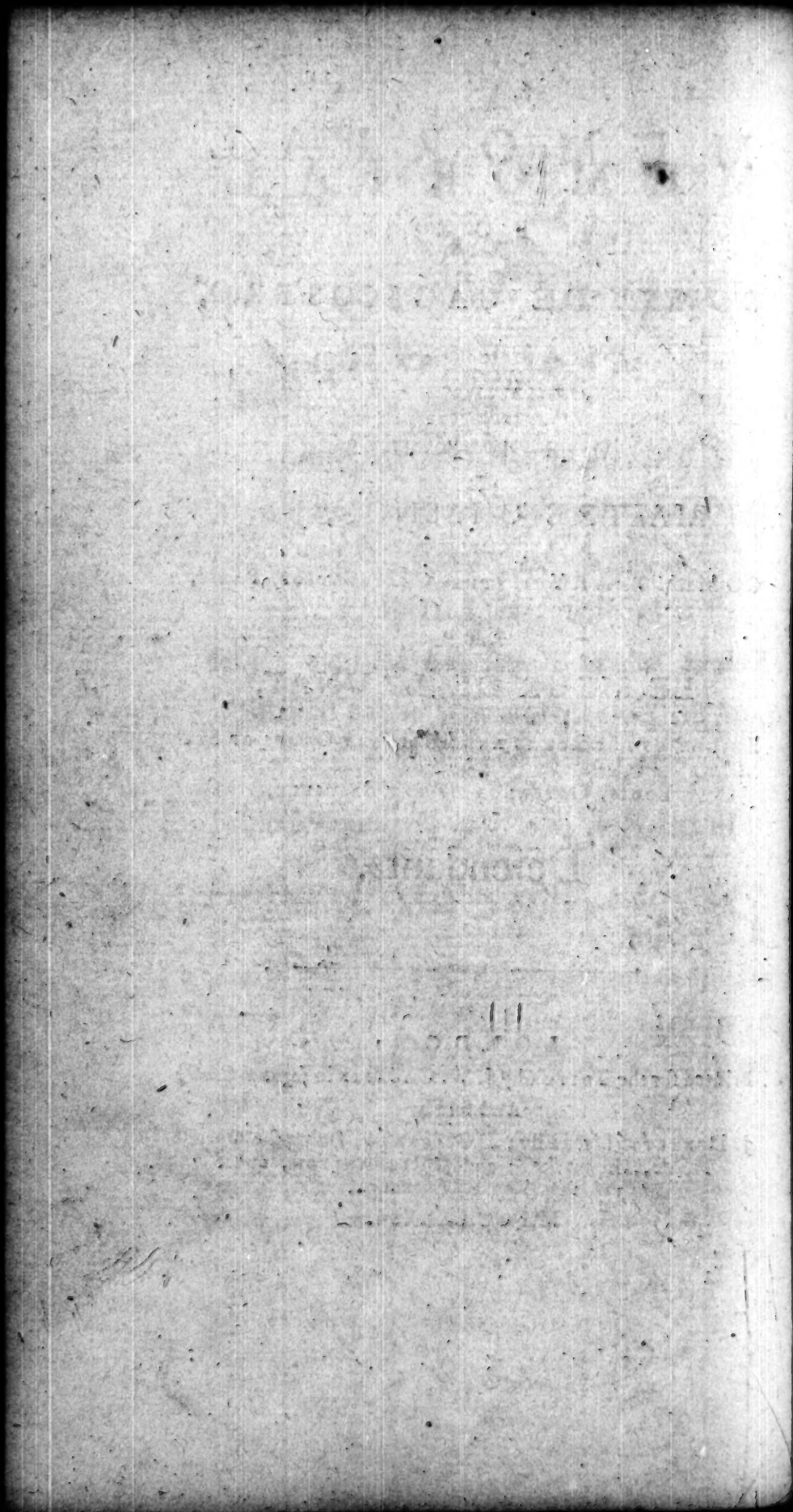
L O N D O N :

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M.DCC.LXXXVI.



MEMORIAL

FOR

COMTE DE CAGLIOSTRO,

PLAINTIFF,

Versus

MAITRE* CHESNON, Jun.

COMMISSARY in the CHATELET of PARIS,

AND

Le Sieur DE LAUNAY,

Knight of the Royal and Military Order

of St. Louis, Governor of the Bastille,

DEFENDANTS,

In the *Parc civil*, (or *Common Pleas*.)

PROCLAIMED innocent by a solemn award, yet suspected guilty from the act of authority which hath banished me, by what fatality am I obliged to raise again my voice in the French tribunals?

A 2

Owing

* *Maitre* is commonly used instead of *Monsieur* before the name of all persons in the law when public mention is made of it in any process. *Maitre*, quasi *Magister Legum*, Master at Law.

Owing to the inconceivable neglect of two officers, whose business it was, in their respective capacity, to see the king's commands put into execution, a considerable part of my fortune has been wrested from me. I do not mean to impeach their honour; but, without rancour, and without animosity, I bring an action against them to have reparation of the prejudice done to me by the fault they have committed. Inured to the practice of self-denial, I might have remained silent, on this occasion, had my own interest been my sole motive; but my fortune is the patrimony of the poor; and, when I strive to preserve it, it is their rights I support.

Were I not so well known, I might perhaps fear lest the action I have brought should be ascribed to a spirit of revenge; but I am confident in the public esteem. Shut in under the bolts of the Bastille, I dared to lay open before the magistrates the conduct of the commissary who has that prison within his department, and that of
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the governor whilst I was at his discretion. I then announced what I now perform. Were I, what I had a right to expect, free and honoured, the courts of justice must have heard me. They shall hear me still, banished and proscribed as I am. Neither exile, nor bondage, will ever induce me to be guilty of an injustice; but, in the mean time, neither shall they compel me to give up a claim which I deem useful, and which I shall urge till the court has pronounced between my adversaries and me.

DECLARATION.

On the 23d of August, 1785, *Commissary Chesnon came to my house, accompanied by an *exempt* and eight runners of the police. He signified to me that his order

* The word *commissaire*, which is here translated *commissary*, means an inferior magistrate, whose functions are nearly similar to those of our trading justices, and whose character stands almost as high as that of the latter in the public estimation. He has, like them, a chief runner, who is called *exempt*, probably from that office bearing exemption from being a slave either to honour or humanity. — P. M.

der was to bring me before the *lieutenant de police*. By the number of his followers I had reason to suspect that something more serious was to come. I took him aside, and asked him whether there were any orders against my wife. He made me easy by pledging *his word of honour* that he had none against any one but myself.

He desired me to deliver up my keys, and compelled me to open my bureau, which I did. There were in it several medicaments; amongst the rest, six bottles of a precious cordial. One Des Brunieres, the exempt, seized, in my presence, on what suited him best, namely, upon four bottles of the cordial. The catchpoles he had brought with him followed the example of their leader, and the plunder began, I would have shut the bureau, but the commissary would not allow it. The only favour I asked was, that I might be permitted to go in my own carriage to the place of my destination: it was refused. I then only requested to be allowed the use of a
hackney-

hackney-coach : it was denied. The commissary, proud of making a show of his prey to the thronging multitude, insisted on my walking part of the way. His commands were fulfilled with the utmost severity. Although I was perfectly submissive, and did not oppose the least shadow of resistance, yet Des Brunieres laid hold of me by the collar, and dragged me along the Boulevard.

He had in his coat-pockets a pair of horse-pistols, and two pocket-ones in his fob, affecting to let the but-ends out at the holes ; and, lest that ridiculous preparation should not be sufficient to protect him, I was surrounded by four alguasils, who pressed upon me close, and watched my every motion.

The better to deceive my wife and my servants, they made me take a way diametrically contrary to the one that led to the habitation intended for me. He marched up the Boulevards, through the *rue de St. Claude*, till we came opposite to that of *Des Filles*

Filles du Calvaire, where I got into the hackney-coach that carried me to the Bastille.

The commissary remained in my house with the rest of his satellites, waiting the return of Des Brunieres and his gang. He then turned out every body from the apartment of the Comtesse de Cagliostro, not excepting even her own woman; having thus made himself master of the house, and no other witness of any attempt from him than a woman half dead with fear, he double-locked the door inside, and ordered the presses and chests of drawers, &c. to be opened. Hats, feathers, gowns, linen, all were fumbled, tossed about, and laid up in a heap. The cash and valuables were put into a band-box; this was shut up and tied round with a ribbon, on one end of which the commissary put his seal, and insisted on the comtesse sealing the other with a common head. In vain, did she ask leave to use her own seal, as being better engraved, more complex, and, of course, not so easily counterfeited; the commissary

was

was obstinate, and the comtesse obliged to put upon a band-box, which is supposed to contain the bulk of my fortune, the stamp of a seal chosen by the commissary.

No lawful seals were apposed, the keys were left in the bureau and all the drawers, and the room door was locked. My wife was carried to a hackney-coach, and three fellows of the police got into it with her; she is conveyed to the Bastille, and the box, together with the keys of the apartment, delivered to the Sieur De Launay, governor of that prison.

On the next day, being the 24th of August, the comtesse was examined by the *lieutenant de police*, attended by Commissary Chesnon. The band-box being brought in, it was opened before her, a few questions were put about the diamonds therein contained; then they shut it up with the same formality.

The two following days I underwent a ministerial examination: I had a glimpse of the box, which the *lieutenant de police* desired

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to

to be opened in my presence; but this was opposed by the Sieur De Launay, under pretence that it was needless. He then whispered something, which I could not hear, to the magistrate, and I was denied the satisfaction of seeing the contents of the box.

It is a rule that a prisoner entombed in the Bastille must be ignorant of what is transacted abroad, whether the matter concerns him, or whether it be of a public nature.

I constantly enquired after my wife. I had a secret foreboding that she shared in my captivity. My jailors, when asked the question, would answer, affirm, nay swear, by their honour and God himself, that she was not in the Bastille.

I had obtained leave to write to her, my letters were submitted to the inspection of the staff-officers, and was permitted to receive answers. In order to keep me in the dark they had devised the following scheme.

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The Comtesse de Cagliostro, as may well be imagined, was very desirous to hear from me by letter. This favour was granted; but, upon express condition that she would assist in the trifling deception. The motive was laudable; as it tended to save me the chagrin of knowing that she was near me, and a prisoner, she readily consented.

As my wife cannot write, a friend of hers used to do it for her, under the dictation of one of the principal officers, that she was quiet at home, taking such steps as would soon restore me to freedom, &c, the letter carried to the comtesse was sealed by her and brought to me. If I wanted clothes or linen I dispatched a line to my wife: an officer would then go to my house, open the doors and drawers in the presence of a neighbour, and return with the things, bringing a letter, calculated to make me believe that they were sent by my wife herself.

In the month of February I was permitted to see my counsel, and then, was informed, for the first time, that the comtesse had been

brought to the Bastille the very same day I had entered it.

Sometime after the publication of my first memorial, I enquired into the formalities which are usually practised in France, in order to secure the property of those who are imprisoned; I was answered by my counsel, that in such cases the effects of the culprit were put under seal. This expression was quite new to me: I had it explained; and then told my counsel, that I did not believe any seal had been put in my house: the fact appeared improbable; but at last it was proved, and the gentleman obliged to acknowledge that my doubts were well-grounded.

I recollected the cash and bills on the Caisse d'Escompte, which must have been found in my bureau, and sent to my attorney the following

Account

Account of the Ready-Money, Effects, and Papers, in my Bureau; which I aver to be true and just.

1st. In the upper part fifteen rouleaux, sealed with my arms, each of them containing fifty double louis-d'ors.

2dly. A money-bag containing 1233 Roman and Venetian sequins.

3dly. Twenty-four Spanish quadruples, in a rouleau, sealed with my seal.

4thly. Two portfolios, one red and one green; in the former are different certificates and other papers.

The green one contains 47 bills on the Caisse d'Escompte of 1000 livres each, and various papers written in Latin and foreign languages.

In the same bureau are, &c.

Approved the writing, and certified the above inventory to be true and sincere.

PARIS, Feb. 27, 1786.

(Signed,)

Le Compte de Cagliostro.

Exclusive

Exclusive of the sums deposited in my bureau, there might be in the hands of my wife 3 or 4000 livres for the current expences; but, not being positive as to the real amount of the sum, I would not have it mentioned in an inventory vouched by me.

My counsel seemed very uneasy: I related to him the story of the band-box, which had been produced but not opened, and, in which, I presumed, were contained my money and most valuable effects. He thought it expedient to enquire into the business. The governor of the Bastille being asked, whether he really had in hand several rouleaux, bills, &c. mysteriously answered that the band-box contained only two rouleaux of 25 double-louis-d'ors each and some jewels.

I could not contain my apprehensions. On the 27th of February I presented a petition to the parliament, praying that one of the members might be appointed to put my goods under seal, and take an
inventory

inventory of the papers and cash that might be found ; the whole at my own expence, and at the risque and peril of whomsoever it might concern.

The parliament being then in the vacation that precedes Lent, and the first president absent, application was made by Mr. Brazon, my attorney, to president D'Ormesson ; who, upon the stating of the fact, did not think himself justified in refusing the warrant to commit the same.

Monsieur Dupuis de Marcé, who had been appointed by Monsieur D'Ormesson, declined the executing of the warrant before the attorney-general had seen the petition and the latter had been reported to the house. It was, therefore, communicated to the attorney-general ; who, moved thereto by some superior motives, was of opinion, that the petition should be thrown out ; — it was not even reported.

At the confrontations, I imparted my uneasiness to M. Dupuis de Marcé, and respectfully enquired of him, what reasons had

had determined the parliament not to attend to my petition. I was answered that I might make myself perfectly easy, and that I should recover all my property.

This promise I could not thoroughly reconcile with the governor's former answer; however, as it was possible that the latter, obliged, by the nature of his employment, to keep the most profound secret on what concerns his prisoners, might have concealed the truth, I took patience, waiting for the event,

It was my intention, after the trial should be over and I released from the Bastille, to have requested the attendance of a commissary, in order to ascertain the non-apposition of the seal, and take an inventory of such effects as might be found in my house. But I was prevented from effecting this resolution by an event* truly dear to my heart, and well-calculated to alleviate my sorrows.

* The release of the Comtesse de Cagliostro from the Bastille, March 26, 1786.

The reader may recollect the severe illness that endangered the life of the comtesse in the Bastille,—what concern I felt at so alarming an intelligence, — the petition I presented to the house of parliament in full convocation, — the noble efforts of a magistrate, (Monsieur d'Eprémefnil,) equally celebrated for his eloquence and magnanimity, and whose name will ever remain engraved on my heart, — the resolution come to by the house, that they would exert their utmost interest with his majesty, — the success that followed,—and the blessings which the public bestowed on the first senate of the kingdom for their generous interposition, and on the humanity of a monarch ever just when truth is permitted to reach his royal ear.

The Comtesse de Cagliostro left the Bastille on the 26th of March. The governor was so attentive as to send, early in the morning, to my servants, the key of the apartment, that my wife might find every thing ready for her reception. This *offi-*

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cioufness of the *Sieur De Launay* was the cause of the *comtesse* not calling in the assistance of the commissary, as she would have done, before her return to me, had the keys been delivered to her.

The first care the *comtesse* took was to examine into the state of my bureau. The great portfolio had disappeared. She could find neither money nor bills, but only a few papers of no great consequence, and some medicaments.

My new judges will see, by my petition in attenuation, which accompanies this Memorial, in what manner the *Sieur De Launay* behaved at the time that the *Comtesse de Cagliostro* left the Bastille,—the discharge he had insisted upon, — his promise of returning, within three days, the effects contained in the band-box,—his forgetting to fulfil it, — the repeated, but useless, applications made to him, — and the necessity in which I found myself of making an appeal to the magistrates and the public, and stating before them facts which it was highly

ly important for me to ascertain previous to the judgement.

The long wished-for moment at last arrived ; the persons accused are brought before their judges,—the votes collected,—the people croud in, impatient to know whether the parliament will affirm the judgement already pronounced by all Europe.

The judges divide ; the award is given ; it is echoed all around ; *long live the King* is heard from every part ; the members of the parliament, encompassed, pressed upon, applauded, are crowned with flowers ; the acclamation is general, and the prelate, robed in the Roman purple, is carried back in triumph to the Bastille : he once more enters its gates, but soon will they fly open to restore him to the wishes of a feeling public, who share in his glory as they had sympathised with his sufferings.

And I, whom an unaccountable fatality hath ever linked to the destiny of that illustrious but ill-fated man ; I, like him, innocent, imprisoned, accused, slandered like

him ; I, who, like him, have been honourably acquitted by the justice of the magistrates, after having obtained, like him, from their humanity, not to remain in the mansion of the guilty ; who left the Bastille at the same time that he was released from it ; in fine, who, like him, was to be doomed to a rigorous banishment ; I too had a share in the suffrages of the people.

That sentence, truly memorable and glorious for the judges and the nation, was pronounced on the 31st of May, at nine in the evening. The next day, at the same hour, I was restored to my liberty.

Being come down to the council-chamber, I there met the governor and Commissary Chefnon, jun. A band-box, tied round with ribbons, stood on the table. The commissary began by reproaching me, in a manner not over civil, with the apprehensions I had expressed, and the exceptions I had made, in my last petition. As chance would have it, I had then a cane in my hand. I threw myself involuntarily
into

into an *energetic posture*, which gave the commissary to understand that, although still a prisoner, I would not be insulted with impunity. The governor rushed between us, and each resumed the tone that suited him best.

"Do you know this box again?" said the commissary in a softer key.—"No."—"And the ribbon round it?"—"No."—"The seal?"—"Much less."—"Know that it is our own."—"What care I?"—"But this other seal is surely known to you?"—"No."—"Your lady set it herself."—"It may be so."—"Are you acquainted with the contents of the box?"—"No."—"They consist of your diamonds and money."—"Perhaps."—"It also contains a regular inventory of your effects."—"I wish it may."—"You cannot but believe——"—"When I see it."—"Upon the truth we pledge our honour."—"It is saying much."—"Will you have it opened?"—"Just as you like."

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The governor, taking up a pair of scissors, cut the ribbon, and opened the box, but no inventory could be found. They both looked amazed; especially the governor, who could not be said to recover from his surprise.—It was incredible.—He would give half his fortune that such a thing had not happened.

I suffered them to run on with their exclamations: mine would have been better founded. I was silent: and when I spoke it was to tell them, with the utmost compulsion, that I was ready to receive the contents of the box, provided they would not require a full discharge, but only a partial one, specifying all the effects returned to me. The governor and commissary condescended to admit of the condition.

Thus did I acquire the sad conviction that the portfolio and the 100,000 livres, or thereabouts, which were in my bureau before my imprisonment, had been purloined, either through the fault of the commissary, who had not set the seals, nor taken

ken an inventory of the cash, bills, and other valuables, which he had seized, or by the carelessness of the governor, who had not kept a good watch upon the box he had in his custody.

At last I quitted the horrid abode of the Bastille, at half-past eleven at night, after nine months and nine days of captivity. A hackney-coach carried me to my house. Two hours had hardly elapsed since my wife had been acquainted with my release. The night was dark, the part of the town I lived in rather retired, and I rejoiced at the thoughts of getting home quietly, and without being particularly noticed.

But how great was my surprise when I heard myself welcomed by the acclamations of eight or ten thousand people! My doors had been forced open. The yard, staircase, apartments, — every place was full. I am carried into the very arms of my wife. My heart is unable to maintain the struggling sentiments that dispute their empire over it; my knees fail me; I sink motionless
on

on the floor. My wife screams, and falls into a swoon. Our trembling friends haste to our assistance, doubtful whether the fairest moment of our lives will not prove the last. The drums are hushed. A mournful silence has succeeded to noisy mirth. After a long fit I revive. A flood of tears gush from my eyes, and I can at last, without dying, press to my bosom Here I stop. — O ye privileged beings, who have received from heaven the rare, but fatal, gift of a burning soul and a feeling heart, ye, who have experienced the delights of yielding, for the first time, to the power of love, ye alone can understand me, ye alone can properly value the first moment of happiness after ten months of painful expectation!

Mean while the crowd increases, — the report of our being restored to life is spread, — and renewed acclamations salute our ears. We are called out, — hurried along by our friends. Who can resist so pleasing a violence? Who refuse to partake the effusions

sions of popular joy? We were obliged to hear the applause and receive the blessings of a multitude whom our felicity had assembled and made happy. Excellent people! no doubt you shared in that joy which penetrated my heart.—With the triumph of innocence begins public felicity.

Extatic moments, you were short-lived! The fairest of nights was to be replaced by the foulest day. So sweet, so dearly-bought, a triumph was but illusive; and, whilst prostrate before the French public, my sighs expressed the excess of my gratitude, I spake not my thanks, but was taking of them an everlasting farewell.

Not above twelve hours had elapsed since my release from the Bastille. My mind, long distracted with thoughts as gloomy as the tower of my captivity, could hardly enjoy the enchanting spectacle I had before my eyes. It was no longer that frightful solitude, that deadly silence, seldom interrupted but by the horrid sound of keys and bolts. A snug apartment, which, by

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comparison, appeared to me magnificent, contained all I held dear and nearest to my heart,—my wife and friends. They gazed upon me, and embraced each other. Alternately pressed to their bosoms, I exchanged with them the most endearing careffes. Tears of joy bedewed our cheeks: our hearts were at ease.—Lo! a stranger appears. Without farther introduction, he boldly rushes into the room. * His looks are ominous; he “grinn’d, horrible, a ghastly smile.” I knew him again to be that very Des Brunieres who had headed the expedition of the 23d of August, which he performed so faithfully.

In the king’s name, said he — Every heart shrunk at the tremendous sound. He then pulled out a paper, which I received, and read. I could hardly believe my own eyes: I perused it once more. It was an order for me to quit Paris in twenty-four hours, and the kingdom within three weeks; forbidding my ever revisiting it at any time,

or

or on any pretence whatever, under pain of disobedience.*

I shall not attempt to describe what effect so dire, so unlooked-for, an order had upon the public at large. But, if I am permitted to judge of the French nation by the crowds that met me on the road, I may venture to say that my private misfortune bore all the symptoms of a general calamity.

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Impatient,

* The reader should observe that there is a great difference in the *French language* between *banni* and *exilé*. The latter is not disgraceful, as it is the absolute decree of arbitrary power. Banishment, on the contrary, is inflicted only on criminals. Thus *Villette*, who forged the noted approbation, signed by him *Marie Antoinette de France*, in the affair of the necklace, was *banni* in the ignominious sense of the word; that is, led with a rope round his neck to the gate that leads out of the kingdom by the hangman, who gives the malefactor a kick on the b—— and a loaf, and bids him on pain of death never to return. This is something similar to our transportation. In our interpretation of the word *banishment*, without guilt, the Comte now, in this country, may justly say with one of Shakspeare's heroes,

—— Now go I, with content,

To liberty, and not to *banishment*.

Impatient, however, to prove my respectful submission to the will of a sovereign, who, for six whole years, had suffered me to do within his dominions all the good in my power, I thought it best not to avail myself even of the short space that was granted me. I left Paris in the morning of Saturday, on the 3d of June, leaving to my wife the care of settling my private concerns. Mean while I hired a ready-furnished apartment at Passy, where I shut myself up for nine days, and never went out even for a walk, lest my appearing in public should occasion any disturbance that might displease the government.

On Tuesday, the 13th, I repaired to the Epée Royale, at St. Denis, where the faithful, but too ill-fated, companion of all my troubles was waiting for me. Surrounded by my friends,—my good friends,—I forgot for a while the hardship of my destiny. I was forced at last to tear myself from their embraces; my courage, hitherto unshaken, forsook me then. I felt and lamented the irreparable

irreparable loss brought on me by my enemies. Alas ! where shall I find again that multitude of friends, so truly worthy of that sacred name, whose zeal and truth never shone more bright than when misfortunes were pouring fast on my head ?

The comtesse and I left St. Denis the same day, at five o'clock in the afternoon. The inhabitants lined the streets, on both sides, as we crossed the town. They observed the most profound silence ; but sweet sympathy and a tender concern were visible on every countenance. May they have read in mine the expression of those sentiments, which rent my very heart, when parting from the best-natured and most compassionate nation, as it is the most enlightened, and worthiest of being happy !

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Here it is that the Comte will receive full amends. He is in a country where his benevolence will find a due reward. Let him prove himself here that universal philanthropist he is said to be, and he will meet with a friend in every true Briton ; besides, he will find among us, what he would elsewhere look for in vain, the first of all human blessings, *bequeathed Liberty.*

The king is obeyed; the scene now stands between France and me. But, amidst my misfortunes, I feel the comforting certainty, that, whatever be the powers of those who persecute me, all their efforts will not prevent truth from reaching the throne, when the awful day of justice shall break out at last.

A few moments before the king's commands were signified to me, I had received, from the Sieur De Launay, a copy of the circumstantial receipt I had signed the day before. It is easy to conceive how difficult it would be for me to give a list of such effects as might have been purloined from the box, since no inventory had been taken of its contents.

All I can vouch, on my soul and conscience, is, that I had, in my bureau, the money and bills above stated, and papers of so weighty an importance, that divine Providence can alone make me amends for the loss.

As

As to diamonds and jewels we had them in such plenty, that it would be impossible for us precisely to ascertain how many are missing. All I can recollect, is a pair of bracelets set round with diamonds, which could not be found.

I can farthermore aver, that, during my confinement, a quantity of plate, china, linen, &c. has been embezzled from my house to a considerable amount.

Thus circumstanced, I thought it my duty, though banished from that kingdom, to demand justice of the French tribunals, and bring my action according to the conclusions specified in my petition.

My counsel assured me, that the action might be brought in the Criminal Court, but I have preferred it in the Common Pleas, as the milder way, and more comfortable to that system of moderation from which I never have departed.

In consequence thereof, by writ, of the 21st instant, (June,) I cited, before the Chatelet, both Commissary Chesnon, jun. and

and the Sieur De Launay, to shew cause why they should not be condemned jointly and severally, or, at least, either of the two who should fail in his defence, to make, or cause to be made, to me, full restitution of all and every article of bills and money aforementioned, or, in lieu thereof, pay unto me the sum of 100,000 livres.*

B R I E F.

Lettres de Cachet† are a desperate remedy; useful, perhaps, in very few instances, but which

* Here follow the comte's pretensions against the defendants; but, as they are repeated one by one, and reasons assigned in support of each, a few pages farther, I thought it needless to adhere to mere formalities, which, in law, are no doubt very material, but cannot be so to the reader.

† Thank heaven! we have no word in English that can, even by assimilation, convey the meaning of that dreadful weapon of despotism; but we can give a faint idea of its bad tendency by comparing it to *general warrants*, or a decree of a Star-Chamber. They call them *de cachet*, because they are under seal, and the unfortunate victim whom it concerns must abide by the direction they contain. It must be

which is too often turned into an abuse. Those Letters are extra-judicial. The prince, when he grants them, exercises a momentary dictatorship; but any abuse resulting from them is cognizable by the laws. This abuse is two-fold. It lies either in the manner of obtaining, or in that of carrying them into execution.

As the sublimity of the kingly rank will not permit truth to find its way to the throne but through the intermediate means of persons often interested to disguise it, it is a misfortune, inseparable from a monarch's condition, to mistake, in many instances, errors for real facts. The possibility of being deceived increasing in proportion to the power and greatness of a sovereign, it must follow that the first potentate of Europe is also placed of course at the greatest distance from truth.

The kings of France, in most of the ordinances they have framed for the welfare

of the kingdom, **E**ven the laws of the most despotic monarchs of Europe, however, that these are not now so easily obtained as heretofore; but they still exist, and may be procured.—

“The snake is scotched, it should be killed.”

of the kingdom, and, namely, in the ordinance of Blois, have acknowledged, with equal candour and nobleness of soul, that it was possible to deceive them through importunity into a grant of *letters sealed*, and commanded the judges to disregard them.

It happens every day that persons, who have been employed in soliciting for *lettres de cachet*, are sued before the courts of justice, and cast in damages and costs of suit in behalf of those against whom they had provoked such exertions of authority.

But, if it be true that the obtaining abusively of a *lettre de cachet* is liable to the censure of the tribunals, the same must be the case, and for weightier reasons, when there is abuse in the execution.

When the king signs an order, it goes through several hands till it comes to those of the inferior officer, who is to put it in force. If the latter fail in his duty, if he become guilty of neglect or cruelty, the care of punishing him undoubtedly devolves to the magistrates, who sit in judgement in the king's name. It

It being once proved that the judges, before whom I appeal, are competent to take cognizance of my complaint, it will be an easy matter for me to ascertain the legality of my claim.

I require, in the first place, that the defendants aforesaid be sentenced jointly and severally to refund the 100,000 livres which were in my bureau when I was taken up; or, at all events, that the sentence may be awarded against either of the two who shall be found in fault.

In order that this first demand may be obtained, three different points I have to establish.

1. That the 100,000 livres were in my bureau.

2. That the above sum has not been returned.

3. In fine, that, if the said sum is not in my possession, the fault lies with the commissary or the governor, or both.

It will doubtless not be required of me that I should produce witness in proof of the fact.

A peaceable citizen, within his own doors, who, conscious of no self-reproach, sleeps quiet under the protection of the laws, does not call in every day two persons as witnesses to the state of his strong box: nay, although sure of being apprehended, I should have deemed such precaution not only useless, but even insulting to the nation that granted me hospitality.

Will it be urged that the fact is improbable? But who will think it so? I shall not here enter into a detail of the secret expences which my fortune enabled me to support; I confine myself to my apparent expenditures. All those, who have known me, can declare whether, since I have been in France, I could, from what appeared, spend less than 100,000 livres annually. Where is the wonder then, that a man, who is not used to traffic with his money, should have in hand the amount of one year's income?

Besides, I am ready to affirm, upon oath, the truth of the statement by me certified.

Sure

Sure this is all that justice can strictly require. It can never be supposed, that, for such a sum, the Comte de Cagliostro would perjure himself in the face of all Europe.

Will my adversaries pretend to say that the oath must be tendered to them in preference, they being defendants in the action? Then my answer would be, that, in a general sense, the argument is founded, but the application of the principle to a particular case would be wrong. Why is it customary to tender the oath to the defendant? Because every thing being equal in other respects, the law presumes in his favour. This is so true, that, when the defendant is a man of ill fame, or has been reprehended by the law, the plaintiff is admitted to take his oath. Such is also the case when the latter has the dawn of a proof in his favour. These exceptions take place only because, in those several cases, the presumptive law is on the side of the plaintiff: so that, in fact, neither plaintiff or defendant can plead the preference to the oath, but

but it pertains to either of the two who has in his favour a legal presumption.

This being premised, let us examine, in the case in point, on which side leans the presumption. Are my adversaries, or am I, best intitled to the confidence of justice?

Unwilling to sing my own praise, or hurt the self-conceit of any one, I shall wave mentioning the difference which may exist between us in point of birth, education, principles, and avocations. In the very nature of the business I shall find the motives which ought to induce the court to put me upon my oath in preference to my opponents.

The more I explore the circumstances, the less can I discover in what I could be blamed.

I gave up the key of my bureau to the commissary, but it was by the latter's express command. What resistance could I oppose? Would it have been well in me to refuse obedience to one who was commissioned

fioned to execute the orders of the sovereign ?

I did not desire the commissary to appose the seals in my presence. But, in the first place, I was a foreigner, never in such a predicament in France, and a complete stranger to that ceremony ; — in the next, the commissary had not mentioned a word about my going to the Bastille ; he only said that his orders were to carry me before the *lieutenant de police* ; and, to favour the deception, we took, on the Boulevard, the way that leads to the house of that magistrate. Lastly, the commissary had pledged his word of honour that no warrant had been issued out against the Comtesse de Cagliostro. I therefore had a right to suppose that my money and papers remained under the care of my wife. To betray any mistrust, or to take precautions, would have been, on my part, a grievous affront put upon the commissary, and it was not in my nature so to do.

My

My wife did not require our property to be secured under seal; she did not insist upon his taking an inventory, specifying the money and effects which he carried away. But, am I answerable for what my wife has omitted to do? Did my wife know what was meant by a *scellé*? (the legal form of affixing the seals;) or by a *procès-verbal*? (a formal inventory.) Could she act without being authorised by me? Besides, was not she equally deceived as myself? How could she suppose I was gone to the Bastille, when she had seen me go the very contrary way? Had they not affirmed to her that I was carried before the *lieutenant de police*? And, was she not herself to be conducted to that magistrate?

I did not ascertain, in a legal manner the non-apposition of the seals; I had it not certified legally, whether or not the money and papers were within my bureau. Was it in my power so to do? Full six months elapsed before I learnt that my wife

wife was confined in the same prison with me. As soon as I heard of it, did I not present a petition to the parliament, praying, that within the same day the seals might be affixed in my house, and a descriptive catalogue made out of the papers and money that should be found therein? Am I to answer for the failure of my petition? Was I, were my counsels, applied to when my wife was set at liberty? Were they made acquainted with the circumstance previous to the keys being sent to my servants? What would they have me do? Were not my hands tied? And, of all prevailing powers, is not the Bastille the strongest?

The law, therefore, cannot find the least fault throughout the whole affair.

Does it fare so with my adversaries? And, first of all, has Commissary Chesnon fulfilled the duty of his office, in the execution of the very delicate errand he was sent upon?

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When

When a warrant is issued from the king to apprehend a citizen, if nothing more were required than to perform a *coup-de-main*, an exempt [see the note, p. 5.] and a few catchpoles would prove sufficient, and the presence of a law-officer might be dispensed with.

The first duty of a commissary, appointed to enforce a *lettre de cachet*, is, therefore, to watch over the property of the person apprehended, and prevent all manner of vexation and abuse in effecting the caption.

Will Commissary Cheson insist upon my pointing out the law that he has infringed, by not affixing the seals in my house? Such pretention on his part would be excessively ridiculous. Can there exist a law in what manner *lettres de cachet* are to be served? Were such a law in being those letters would be sanctioned by law, they would not constitute an *extra-judicial* but a legal act.

Certainly

Certainly there is not any positive law by which Commissary Chesnon was compelled to affix the seals in my house; to make an exact return of all the money, papers, and precious effects, which he seized upon; in fine, to watch over the preservation of my property; but custom has the force of law in cases for which no legal provision has been made. Commissary Chesnon is not free from censure, if, concerning the case in point, there did exist a custom invariable, and if in his conduct he has deviated from its rules.

Now it is beyond all doubt, that such a custom doth and hath prevailed, constantly, and from time out of mind. It is grounded on the principles of sound reason and those of natural equity. It consists in this; that, whenever a man is taken up upon the king's own warrant, the commissary, in the presence of the prisoner, apposes the seals, with a description of the money, papers, and valuable goods, as also on the other effects

effects and moveables, but without entering into a description of the latter.

When the commissary takes it upon him to carry away, from the premises, the money, papers, and precious effects, (which is not regular,) he ought, at least, previously to make out an inventory, a copy of which should be annexed to the return he makes of the caption. Yet, this circumstance does not by any means dispense with his affixing the seals upon the furniture and the rest of the property.

If this be constantly practised when a citizen is taken up, who leaves behind him relations, friends, and fellow-citizens, ready to take care of his property; how much more fully should that custom be enforced, when the object of prosecution is a stranger, a traveller, who, in his transitory abode, can claim neither the ties of blood or country? Are not the rights of hospitality, from the very reason that they are more easily infringed in this case, more sacred and inviolable than those of a citizen?

After

After having stated what it behoved Commissary Chesnon to do, let us examine what he has done.

1st. He has neglected to affix the seals; it is a notorious fact; he has acknowledged it in the hearing of several credible witnesses; and, if he dared to deny it, I could easily bring it home to him.

2dly. He carried off all the cash, several papers, diamonds, and costly jewels, in great number, without taking an inventory either in my presence or that of the Comtesse de Cagliostro.

In support of the above fact, the commissary is challenged to produce a copy of the return he ought to have made of that removal of the goods, and by what motive he was induced to effect it; — or the inventory of those very goods, signed by my wife or me, which should have been annexed to the minutes of his return.

3dly. Maitre Chesnon was an eye-witness to the plunder committed by his satellites; he in particular saw the exempt,

Des Brunieres,

Des Bruniers, filling his pockets with four bottles of cordial and drops, with other precious medicines, and yet viewed, without the least concern, those depredations upon my property.

4thly. He made use neither of prudence, moderation, or humanity, in the execution of the king's warrant; contrary to the usual mode, he served it in the very face of day. He refused me the use of my coach in my own court-yard. During part of the way he suffered me to be dragged on foot by Des Brunieres, and four catchpoles, who held me by the collar.

Lastly. Commissary Cheson has gone such lengths as no man of honour will allow himself, be the pretext what it may. He has betrayed the truth. He betrayed it by saying, that his orders were to carry me before the *lieutenant de police*. He betrayed it by pledging his word of honour, that there was no warrant out against my wife, while he had one in his pocket to see her to the Bastille. In fine, he betrayed

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it when he assured the Comtesse de Cagliostro, that the *lieutenant de police* wished to see her, and that he would send her to his house.

The man, whose duty it is to affix the seals on the moveables and goods of a prisoner, hath not done it. He, who has carried away from the prisoner's house, money, jewels, &c. without setting them down in an inventory; he, who having it in his power to check the depredators, remained an unconcerned spectator; he, who has acted without humanity, without commiseration, against an unfortunate couple; he, in fine, who could and did deceive them, and falsely pledge his word of honour; does not deserve that justice should repose any trust in him. Whether he be plaintiff or defendant, legal presumption militates against him. To such a man, therefore, the oath should not be tendered in preference.

In regard to the *Sieur De Launay*, he has maintained, before me, that he had received

ceived an inventory of the effects contained in the band-box, and on *his word of honour* averred that it was in the said box. When the latter was opened, the inventory could not be found. From this circumstance it follows, either that De Launay has made too cheap of his word of honour, or that he did not carefully preserve the objects instructed to his vigilance; and, in either case, legal presumption is against him, and he cannot be admitted to take the oath.

To me, therefore, although plaintiff in the case, and not to the defendants, should the oath be tendered, since the law must presume against them, and entirely for me.

Will my adversaries still insist and endeavour to set up a plea of consideration in order to avoid the rigour of the principle laid down here? Will they say that a decision in my favour would lead to great abuses? That there might be found unprincipled prisoners, who would forswear themselves by claiming an imaginary fortune?

This

This would be an evil no doubt; yet not so great as that which would leave those who execute the royal mandates to enjoy the right of prevaricating with impunity.

How! They shall be permitted to enter a house, conceal from the father of a family the fate that awaits him, dispel his uneasiness by the most impudent falsehoods, make him believe that no warrant is out against his wife, and persuade the latter that she is only going before a magistrate! They shall be permitted to turn away the neighbours, friends, and servants, even deprive the mistress of the house of her own woman, to lock themselves up in an apartment, search, fumble, bundle up, spoil, and break, the goods, to seize on the money, papers, &c. and carry them away without a proper inventory, to fill their pockets with what suits them best, to affix no seals, to leave every door open, suffer every thing to be pillaged, and, when, at last, the unfortunate prisoner, restored to liberty, shall call them to an account about his property,

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they

they will come off by saying, " You have no legal right to complain, because it might happen that an other man in a similar situation should forswear himself." Others, say you, might, in my situation, be perjured: Indeed, I verily believe you do not suppose me capable of committing such a crime. But, if it were possible that some other man woe be to you as authors of the evil: ye should answer for it before God and man.

It is then legally proved, by my declaration, and by the oath which I submit to, and which I have a right to claim, that, at the time when Commissary Chesnon came to my house, I had in my possession 100,000 livres, which I now demand.

It now remains with me to prove two points, in order to evince the legality of my first count. The one is, that the 100,000 livres have not been returned to me; and that, to the fault of my adversaries, I must ascribe the loss of that portion

of

of my property. The first point I maintain.

When my wife returned to the house, she found all the bureau-drawers opened, but neither money or bills were to be seen.

As to the effects I have received at my departure from the Bastille, it will appear, by the receipt, that they consisted only of two rouleaux, each containing 25 double louis-d'ors, taken out of my wife's drawers; and a few louis which were in her purse and mine, but not a single tittle of the other articles set down in the declaration.

In the next place I insist, that it is the fault of either, or both, of the defendants if the 100,000 livres are no longer in my possession.

The sum first-mentioned hath been purloined, but by whom? What care I? Was it taken from the bureau, or from the box? Less material to me still. The fact is, that it hath been embezzled out of either, and that, at all events, it hath been so through the fault of one or both of the defendants.

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If taken out of the bureau, then the commissary is to blame for having placed too implicit a confidence in his followers, for not requiring of me a declaration of what money and bills I possessed, for leaving my bureau opened, and for neglecting the indispensable formality of affixing the seals.

Will it be alleged that the embezzlement might have taken place during the space of time that elapsed between the delivering of the keys to the servants and the return of my wife to her house? In that case, it is partly the fault of the commissary, and partly that of the governor, who should have delivered the keys to no one but the Comtesse de Cagliostro.

Were the 100,000 livres taken out of the band-box? It then follows, either that the commissary has made a formal return, which proves that the above sum was actually put into the box deposited with the governor, or no return was made. In the former case, the governor must be blamed for his want of vigilance; in the latter, both the

defendants

defendants were in fault, as the commissary omitted the necessary precautions before he let the box go out of his hands.

Now if it be proved that the loss of the sum I claim lies at the door of my opponents, I certainly have a right to call upon them for restitution.

Their office being an office of rigour, they are in the case of a man who, forced to become trustee, is answerable for the least injury. How much more are they responsible for a gross and heavy one, such as is termed in the Roman law, *culpa data*, *culpa dolo proxima*, (a fault indefinite is next to a fraud!)

Whatever my adversaries may allege in their defence, the issue cannot be doubtful for me. I must obtain a verdict against the one or the other, or both of them jointly.

In the next place, I insist on their making restitution of certain papers, of infinite value to me, which were with the forty-seven bills of the *caisse*, in the green portfolio; or, in lieu thereof, that they be
cast

cast in 50,000 livres damages, to be applied to the sustenance of the poor prisoners confined in the Chatelet.

Some particular considerations will not permit me to be more explicit, at present, on the nature of those papers. But, as to their importance, it is such, that I would readily give up all I possess in the world to have them restored; and that, as I said before, Providence alone can make me amends for such a loss. But, in whatever hands they may have fallen, I charge the possessor, before God, to restore them; and, so easy am I about what use he might make of them, that, in the same awful presence, I challenge him to produce those papers.

The very same proofs I have adduced in support of the first will be equally conclusive in this second count. Those papers are lost either by the fault of the governor, or of the commissary, or of both. It is, therefore, their business to restore, or cause them to be restored, or be cast in damages, which ought not to be contested, since I restrain them

them to 50,000 livres, declaring myself ready at the same time to swear, upon oath, that the papers I now claim are to me of inestimable value.

I require, in the next place, that Commissary Chesnon be sentenced to pay the farther sum of 50,000 livres by way of damages, sustained by me in consequence of the barbarous manner in which he has executed the king's warrant, and of the injury I have suffered through his neglect in not apposing the seals in my house and delivering a proper return, specifying the cash and other effects carried off from my premises. The above sum, like the former, to be laid out in favour of the aforesaid prisoners.

It would be a very difficult matter to estimate the damage I sustain by the unaccountable negligence of the commissary. Costly jewels have been purloined from my house; among the rest, a pair of bracelets set round with diamonds, an immense quantity of linen, china, plate, crystals, valuable

able medicines, &c. When I bring down my damages so low as 50,000 livres only, both on the score of pecuniary and other losses, and on account of the ill-treatment I received from him, I think that my demand is by no means extravagant.

Among the ancients, the spot that had been struck by lightning was held sacred, and never approached but with reverential awe. This emblem, truly sublime, of the respect due to the unfortunate, should, if humanity were not enough, have taught Commissary Chesnon not to add vexation to rigour, nor sorrow to pain. If the king, thereto moved by some powerful reasons, had thought it expedient to have me apprehended as well as my wife, the bearer of his commands should have been content with effecting our imprisonment without abandoning our property to be pillaged. It was not enough for such a man to keep his hands clean from evil, but it was also his duty to protect us against the malice of the understrappers in his suite. He now be-

comes,

comes, in justice, answerable not only for the mischief he has done, but for that also which he might have prevented.

I have deemed it my duty to lay before the magistrates an exact recital of the behaviour of my adversaries, and of what I have suffered. In this affair, the last, in all probability, that I shall be concerned in before the French tribunals, it behoved me to conceal nothing. The reader may have seen with how much rancour I have been treated, and how little I deserved it. Far be it from me to charge the whole nation for the malice or mistakes of a few individuals. My fate is hard, no doubt, but misfortune shall not drive me to commit an injustice.

Frenchmen! ye are a nation truly generous, truly hospitable! Never shall I forget the tender concern you have expressed for me, nor the delightful tears your love hath forced from my eyes. Calumny and persecution pressed hard upon me. I have experienced all the torments that can distract

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the human breast. One day, — one single day of triumph and happiness, — hath made ample amends for my long sufferings. Called upon, wished for, regretted every where, I had chosen for my residence the country ye inhabit. There have I done all the good that my abilities and fortune could allow. Strasburgh, Bourdeaux, Lyons, Paris, ye shall bear witness for me to all the world; ye will declare whether I ever gave offence to the meanest of your inhabitants, whether I have not held most sacred, at all times, religion, government, and the laws; and yet the voice of my enemies hath prevailed: they have deceived the king: banishment! * unlimited banishment! such is my reward, such the indemnification I was to receive. — I am expelled from France. — O ye inhabitants of that happy country, accept of the farewell of an unfortunate, worthy perhaps of your esteem — of your regrets. — Accustomed to submit without repining to the

* See the note, P. 27.

the will of sovereigns ; he is gone ! he is gone ! but his heart is among ye ; wherever he may settle, be sure that he will constantly remain your friend. Happy will he think himself if the misfortunes he has undergone in your country fall on his head alone, and if the instance of a stranger unjustly oppressed do not deter the wary travellers from visiting your superb cities.

Signed, LE COMTE DE CAGLIOSTRO.

M. THILORIER, Counsel.

GERVAIS, Attorney.

(29)
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gone! but his heart is among ye; where-
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collect from visiting your labor cities.

Signal, Le Comte de Cagliostro.

M. Turgot, Counsel.

Cervais, Attorney.

* * Since this memorial hath been sent to the press, intelligence has been received from Paris, importing that the governor of the Bastille has threatened the counsel, whose name is above subscribed, with an apartment under his roof; and that his name should be struck out of the rolls, unless he would consent to unsay all that is here alleged to the disparagement of his (De Launay's) character. Mr. Thilorier, we hear, is not entirely frightened from supporting a client he has adopted. So that the governor's success is, in this respect, at least, very problematical. Meanwhile, the tools of despotism must be patronized, and M. De Launay has obtained a rule to remove the action from the Chatelet, were it was to be tried, to the King's Council-Board. "Thus," says the writer of the letter whence this information is taken, "the Governor will, at least, save his money, but" ——— cætera defunct.

The first of these is a memorial from the people of the State, dated
 1840, and signed by the people of the State, in which they
 petitioned the Legislature to amend the Constitution, so that the
 Governor should be elected by the people, instead of by the
 Legislature. This memorial was presented to the Legislature, and
 was referred to a committee, who reported in favor of it. The
 Legislature then passed a resolution, authorizing the Governor to
 call a convention to amend the Constitution. This convention was
 held in 1845, and it was then that the present Constitution was
 adopted. The second of these is a memorial from the people of
 the State, dated 1850, and signed by the people of the State, in
 which they petitioned the Legislature to amend the Constitution,
 so that the Governor should be elected by the people, instead of
 by the Legislature. This memorial was presented to the Legislature,
 and was referred to a committee, who reported in favor of it. The
 Legislature then passed a resolution, authorizing the Governor to
 call a convention to amend the Constitution. This convention was
 held in 1855, and it was then that the present Constitution was
 adopted. The third of these is a memorial from the people of
 the State, dated 1860, and signed by the people of the State, in
 which they petitioned the Legislature to amend the Constitution,
 so that the Governor should be elected by the people, instead of
 by the Legislature. This memorial was presented to the Legislature,
 and was referred to a committee, who reported in favor of it. The
 Legislature then passed a resolution, authorizing the Governor to
 call a convention to amend the Constitution. This convention was
 held in 1865, and it was then that the present Constitution was
 adopted.